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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/503,042	02/11/2000	Albert D. Baker	Baker 21-4	6042

7590

05/07/2003

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EXAMINER

EMDADI, KAMRAN

ART UNIT

PAPER NUMBER

2664

DATE MAILED: 05/07/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/503,042

Applicant(s)

BAKER ET AL.

Examiner

Kamran Emdadi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).
3. Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Araujo et al. (US Patent No. 6097720).
 - Regarding claims 1, 2, 10, 14, 15, 23 and 27, Araujo teaches: a network with two devices establishing communication by sending control packets back and forth in a layer two tunneling protocol to include CPE (Customer Premise Equipment) in order to establish a tunnel for communication within the layer two protocol (Col 9, lines 15-34).
 - Regarding claims 3 and 16, Araujo teaches: a network server used in the tunneling process (Abstract).

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- Regarding claims 4 and 17, Araujo teaches: the layer two tunneling protocol is a variation of a LLC link of the type PPP as mentioned in the applicant's specification as on type of variant where LLC is inherently a layer two protocol.
- Regarding claims 5, 6, 18, and 19, Araujo teaches: an ADSL modem 13 as being one variation of the CPE (Figure 1).
- Regarding claim 7 and 20, Araujo teaches: an Internet network 31 attached as part of the network inherently communicating with an IP protocol (Figure 1).
- Regarding claims 8, 9, 21, and 22 Araujo teaches: the tunneling protocol across an ATM network (Col 10, lines 65-67) and across a VC (Col 9, line 50).
- Regarding claims 11-13 and 24-26 Araujo teaches: a data link testing process for testing for data link layer or LCP (Link Control Protocols) protocols and network layer protocols and PPP and encapsulation (Col 5, lines 1-10).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 - Araujo et al. (US Patent No. 6118785) PPP with signaling channel.
 - Araujo et al. (US Patent No. 6301229) Protocol processes for end stations.
 - Loehndorf, Jr. et al. (US Patent No. 6094437) L2TP for merging networks.
 - DeNap et al. (US Patent No. 6407997) ATM for telephony.

Examiners notes: **LINK** refers to: The determined **link type** in the illustrative embodiment may include, e.g., one or more of a logical link control (LLC), a

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point-to-point protocol (PPP), an LLC-PPP, an Internet protocol (IP), an LLC-IP protocol, an Ethernet protocol, and an LLC-Ethernet protocol.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamran Emdadi whose telephone number is (703) 305-4899. The examiner can normally be reached between the hours of 8am and 5pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin, can be reached at (703) 305-4366. The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9314 for regular communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Kamran Emdadi

04/22/2003

WANG BIN YAO
RECEIVED
